

AMENDED IN SENATE JUNE 16, 2014

AMENDED IN ASSEMBLY MARCH 18, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2734

Introduced by Committee on Insurance (Assembly Members Perea (Chair), Hagman (Vice Chair), Bradford, Ian Calderon, Cooley, Dababneh, Frazier, Gonzalez, Nestande, V. Manuel Pérez, and Wieckowski)

February 25, 2014

An act to amend Sections 922.4, 922.41, 927.2, 1775.1, 10505.1, and 11628 of the Insurance Code, ~~and~~ to amend Sections 12251 and 12260 of the Revenue and Taxation Code, *and to amend Section 38750 of the Vehicle Code*, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2734, as amended, Committee on Insurance. Insurance: omnibus.

(1) Existing law requires every surplus line broker whose annual tax for the preceding calendar year was \$5,000 or more to make monthly installment payments on account of the annual tax on business done during the calendar year, and authorizes the Insurance Commissioner to relieve a surplus line broker of his or her obligations to make monthly payments if the broker establishes to the commissioner's satisfaction that he or she has ceased to transact business in the state, or his or her annual tax for the current year will be less than \$5,000.

This bill would raise the threshold for making monthly installment payments to \$20,000 or more in annual tax for the preceding calendar year, and would authorize the commissioner to relieve a surplus line

broker of his or her obligations to make monthly payments if his or her annual tax for the current year would be less than \$20,000.

(2) Existing law exempts nonprofit cooperative assessment associations whose membership and insurance are restricted to members of a labor union from provisions relating to the supervision or regulation of insurance with respect to the provision of job protection benefits to their members. Existing law also prohibits these associations from being a member of the California Insurance Guarantee Association for the purpose of providing insolvency insurance to each member.

This bill would provide that the job protection benefits may include accidental death benefits. The bill would prohibit these associations from being a member of any insurance guaranty association in this state and would require each policy issued in this state pursuant to these provisions to contain a specified notice.

(3) Existing law prohibits, among other things, an admitted insurer that is licensed to issue and is issuing motor vehicle liability policies from failing or refusing to accept an application for that insurance, failing or refusing to issue that insurance to the applicant, or from issuing or canceling that insurance under conditions less favorable to the insured than in other comparable cases because of specified reasons, including, but not limited to, discrimination between persons within the same geographic area. Existing law prohibits the admitted motor vehicle liability insurer from using specified characteristics, including, but not limited to, location within a geographic area, in and of itself, as a condition or risk for which a higher rate, premium, or charge is required of the insured for that insurance. Existing law also requires an admitted insurer, licensed to issue and issuing motor vehicle liability policies, motor vehicle physical damage policies, or both, to submit annually to the commissioner a record of loss experience, as specified, for the geographic area, as defined, including statistical data by ZIP Code area. An insurer may satisfy its obligation to report statistical data by providing its loss experience data and statewide expense ratio and combined ratio on its assigned-risk business to a rating or advisory organization for submission to the commissioner. This data is required to be made public by the commissioner annually after examination.

This bill would instead require an insured to submit the record of loss experience for the geographic area biennially. The bill would also require statewide summary data to be submitted to the commissioner annually. The bill would also require that the reported data be made available to the public biennially.

(4) Existing law requires insurers transacting insurance in this state whose annual tax for the preceding calendar year was \$5,000 or more to make prepayments of the annual tax for the current calendar year, except as provided. The commissioner is authorized to relieve an insurer of its obligations to make prepayments if the insurer establishes to the commissioner's satisfaction that the insurer has ceased to transact business in the state, or the insurer's annual tax for the current year will be less than \$5,000.

This bill would raise the threshold for making tax prepayments to \$20,000 or more in annual tax for the preceding calendar year, and would authorize the commissioner to relieve an insurer of its obligations to make prepayments if the insurer's annual tax for the current year would be less than \$20,000.

(5) *Existing law requires every insurer doing business in this state to make and file with the Insurance Commissioner financial statements exhibiting its condition and affairs as of the previous year.*

Existing law requires credit for reinsurance be allowed for a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets specified requirements, including, but not limited to, when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined, for the payment of the valid claims of its United States ceding insurers, their assigns, and successors in interest. Existing law requires that at any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least 3 full years, the commissioner may authorize a reduction in the required trustee surplus, as provided, and the minimum required trustee surplus may not be reduced to an amount less than 50% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

This bill would authorize the trustee surplus to be reduced to not less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust if the commissioner expressly finds that appropriate circumstances justify a lower level of minimum required trustee surplus.

Existing law requires that credit be allowed for a domestic insurer when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this state and secures its obligations in accordance with certain requirements. The

commissioner is required to post a notice on the department's Internet Web site promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application, and the commissioner is prohibited from taking final action on the application until at least 90 days after posting the required notice.

This bill would reduce the period during which the commissioner is prohibited from taking final action on the application to 30 days after posting the required notice.

(6) Existing law, except as provided, prohibits an autonomous vehicle, as defined, from being operated on public roads until the manufacturer submits an application to the Department of Motor Vehicles, and that application is approved by the department. The application is required to contain, at a minimum, specified certifications, including, but not limited to, a certification that the manufacturer will maintain a surety bond or proof of self-insurance in an amount of \$5,000,000.

This bill would provide that the \$5,000,000 in coverage may also be in the form of an instrument of insurance.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 922.4 of the Insurance Code is amended
2 to read:
3 922.4. Credit for reinsurance shall be allowed a domestic ceding
4 insurer as either an asset or a deduction from liability on account
5 of reinsurance ceded only when the reinsurer meets the
6 requirements of subdivision (a), (b), (c), (d), or (e). Credit shall
7 be allowed under subdivision (a), (b), or (c) only for cessions of
8 those kinds or classes of business that the assuming insurer is
9 licensed or otherwise permitted to write or assume in its state of
10 domicile or, in the case of a United States branch of an alien
11 assuming insurer, in the state through which it is entered and
12 licensed to transact insurance or reinsurance.
13 (a) Credit shall be allowed when the reinsurance is ceded to an
14 assuming insurer that is licensed to transact insurance or
15 reinsurance in this state unless the assuming insurer is the subject
16 of a regulatory order or regulatory oversight by any state in which

1 it is licensed based upon a commissioner's determination that the
2 assuming insurer is in a hazardous financial condition.

3 (b) (1) Credit shall be allowed when the reinsurance is ceded
4 to an assuming insurer that is accredited as a reinsurer in this state
5 unless the assuming insurer is the subject of a regulatory order or
6 regulatory oversight by any state in which it is licensed based upon
7 a commissioner's determination that the assuming insurer is in a
8 hazardous financial condition. An accredited reinsurer is one that
9 does all of the following:

10 (A) Files with the commissioner evidence of its submission to
11 this state's jurisdiction.

12 (B) Submits to this state's authority to examine its books and
13 records.

14 (C) Designates the commissioner or a designated attorney in
15 this state as its true and lawful attorney upon whom may be served
16 any lawful process in any action, suit, or proceeding instituted by
17 or on behalf of the ceding insurer.

18 (D) Is licensed to transact insurance or reinsurance in at least
19 one state, or in the case of a United States branch of an alien
20 assuming insurer, is entered through and licensed to transact
21 insurance or reinsurance in at least one state.

22 (E) Files annually with the commissioner a copy of its annual
23 statement filed with the insurance department of its state of
24 domicile and a copy of its most recent audited financial statement
25 and other financial information requested by the commissioner.

26 (F) Submits a statement, signed and verified by an officer of
27 the assuming insurer to be true and correct, that discloses whether
28 the assuming insurer or any affiliated person who owns or has a
29 controlling interest in the assuming insurer is currently known to
30 be the subject of any of the following:

31 (i) Any order or proceeding regarding conservation, liquidation,
32 or receivership.

33 (ii) Any order or proceeding regarding the revocation or
34 suspension of a license or accreditation to transact insurance or
35 reinsurance in any jurisdiction.

36 (iii) Any order or proceeding brought by an insurance regulator
37 in any jurisdiction seeking to restrict or stop the assuming insurer
38 from transacting insurance or reinsurance based upon a hazardous
39 financial condition.

1 The assuming insurer shall provide the commissioner with copies
2 of any orders or other documents initiating proceedings subject to
3 disclosure under this paragraph. The statement shall affirm that
4 no actions, proceedings, or orders subject to this subparagraph are
5 outstanding against the assuming insurer or any affiliated person
6 who owns or has a controlling interest in the assuming insurer,
7 except as disclosed in the statement.

8 (G) Demonstrates to the satisfaction of the commissioner that
9 it has adequate financial capacity to meet its reinsurance obligations
10 and is otherwise qualified to assume reinsurance from domestic
11 insurers. An assuming insurer is deemed to meet this requirement
12 if it maintains a surplus as regards policyholders in an amount that
13 is not less than twenty million dollars (\$20,000,000) and whose
14 accreditation has not been denied by the commissioner within 90
15 days of its submission. An assuming insurer who is not deemed
16 to meet this requirement shall obtain the affirmative approval of
17 the commissioner. The approval of the commissioner shall be
18 based upon a finding that the assuming insurer has adequate
19 financial capacity to meet its reinsurance obligations and is
20 otherwise qualified to assume reinsurance from domestic insurers.

21 (2) The commissioner may deny or revoke an assuming insurer's
22 accreditation if the assuming insurer does not meet all of the
23 standards required of an accredited reinsurer, or if its accreditation
24 would be hazardous to the policyholders of this state. In
25 determining whether to deny or revoke accreditation, the
26 commissioner may consider the qualifications of the assuming
27 insurer with respect to all the following subjects:

28 (A) Its financial stability.

29 (B) The lawfulness and quality of its investments.

30 (C) The competency, character, and integrity of its management.

31 (D) The competency, character, and integrity of persons who
32 own or have a controlling interest in the assuming insurer.

33 (E) Whether claims under its contracts are promptly and fairly
34 adjusted and are promptly and fully paid in accordance with the
35 law and the terms of the contracts.

36 (3) Credit shall not be allowed a domestic ceding insurer if the
37 assuming insurer's accreditation has been revoked by the
38 commissioner after notice and hearing.

1 (c) Credit shall be allowed when the reinsurance is ceded to an
2 assuming insurer that has been certified by the commissioner
3 pursuant to Section 922.41.

4 (d) (1) Credit shall be allowed when the reinsurance is ceded
5 to an assuming insurer that maintains a trust fund in a qualified
6 United States financial institution as defined in subdivision (b) of
7 Section 922.7 for the payment of the valid claims of its United
8 States ceding insurers, their assigns, and successors in interest. To
9 enable the commissioner to determine the sufficiency of the trust
10 fund the assuming insurer shall report annually to the commissioner
11 information substantially the same as that required to be reported
12 on the NAIC Annual Statement form by licensed insurers or any
13 other form required by the NAIC.

14 (2) Credit for reinsurance shall not be granted under this
15 subdivision unless the form of the trust and any amendments to
16 the trust have been approved by either:

17 (A) The commissioner of the state where the trust is domiciled.

18 (B) The commissioner of another state who, pursuant to the
19 terms of the trust instrument, has accepted principal regulatory
20 oversight of the trust.

21 The trust and any trust amendments shall also be filed with the
22 commissioner of every state in which the ceding insurer
23 beneficiaries of the trust are domiciled. Notwithstanding the
24 foregoing, nothing in this paragraph shall prevent the commissioner
25 from disapproving the form of the trust if it is not in compliance
26 with this state's laws and regulations.

27 (3) Credit for reinsurance shall not be granted under this
28 subdivision unless the following requirements are met:

29 (A) The trust instrument shall provide that contested claims
30 shall be valid, enforceable, and payable out of funds in trust to the
31 extent remaining unsatisfied 30 days after entry of the final order
32 of any court of competent jurisdiction in the United States.

33 (B) The trust shall vest legal title to its assets in the trustees of
34 the trust for the benefit of the grantor's United States ceding
35 insurers, their assigns, and successors in interest.

36 (C) The trust and the assuming insurer shall be subject to
37 examination as determined by the commissioner.

38 (D) The trust shall remain in effect for as long as the assuming
39 insurer, or any member or former member of a group of insurers,

1 shall have outstanding obligations due under the reinsurance
2 agreements subject to the trust.

3 (E) No later than February 28 of each year, the trustees of the
4 trust shall report to the commissioner in writing setting forth the
5 balance of the trust and listing the trust's investments at the
6 preceding yearend and shall certify the date of termination of the
7 trust, if so planned, or certify that the trust shall not expire within
8 the next 18 months.

9 (F) The assuming insurer shall do both of the following:

10 (i) Submit to the jurisdiction of any court of competent
11 jurisdiction in any state of the United States, comply with all
12 requirements necessary to give the court jurisdiction, and abide
13 by the final decision of the court or of any appellate court in the
14 event of an appeal.

15 (ii) Designate the commissioner or an attorney in this state as
16 its true and lawful agent upon whom may be served any lawful
17 process in any action, suit, or proceeding instituted by or on behalf
18 of the ceding insurer.

19 This subparagraph is not intended to conflict with or override
20 the obligation of the parties to a reinsurance agreement to arbitrate
21 their disputes, if this obligation is created in the agreement.

22 (G) The assuming insurer shall agree in the trust agreement that
23 notwithstanding any other provision in the trust instrument, if the
24 trust fund is inadequate because it contains an amount less than
25 the amount required by paragraph (4), or if the grantor of the trust
26 has been declared insolvent or placed into receivership,
27 rehabilitation, liquidation, or similar proceedings under the laws
28 of its state or country of domicile:

29 (i) The trustee shall comply with an order of the commissioner
30 with regulatory oversight over the trust or with an order of a court
31 of competent jurisdiction directing the trustee to transfer to the
32 commissioner with regulatory oversight all of the assets of the
33 trust fund.

34 (ii) The assets shall be distributed by, and insurance claims shall
35 be filed with and valued by, the commissioner with regulatory
36 oversight in accordance with the laws of the state in which the
37 trust is domiciled that are applicable to the liquidation of domestic
38 insurance companies.

39 (iii) If the commissioner with regulatory oversight determines
40 that the assets of the trust fund or any part thereof are not necessary

1 to satisfy the claims of the United States ceding insurers of the
2 grantor of the trust, the assets or part thereof shall be returned by
3 the commissioner with regulatory oversight to the trustee for
4 distribution in accordance with the trust agreement.

5 (iv) The grantor hereby waives any right otherwise available to
6 it under United States law that is inconsistent with this provision.

7 (4) The following requirements apply to the following categories
8 of assuming insurer:

9 (A) The trust fund for a single assuming insurer shall consist
10 of funds in trust in an amount not less than the assuming insurer's
11 liabilities attributable to reinsurance ceded by United States
12 domiciled ceding insurers, and, in addition, the assuming insurer
13 shall maintain a trustee surplus of not less than twenty million
14 dollars (\$20,000,000), except as provided in subparagraph (B),
15 (C), or (D).

16 (B) In the case of a group including incorporated and individual
17 unincorporated underwriters:

18 (i) For reinsurance ceded under reinsurance agreements with
19 an inception, amendment, or renewal date on or after January 1,
20 1993, the trust shall consist of a trustee account in an amount not
21 less than the respective underwriters' several liabilities attributable
22 to business ceded by United States domiciled ceding insurers to
23 any underwriter of the group.

24 (ii) For reinsurance ceded under reinsurance agreements with
25 an inception date on or before December 31, 1992, and not
26 amended or renewed after that date, notwithstanding the other
27 provisions of this article, the trust shall consist of a trustee account
28 in an amount not less than the respective underwriters' several
29 insurance and reinsurance liabilities attributable to business written
30 in the United States.

31 (iii) In addition to the trusts required in clauses (i) and (ii), the
32 group shall maintain in trust a trustee surplus of which one
33 hundred million dollars (\$100,000,000) shall be held jointly for
34 the benefit of the United States domiciled ceding insurers of any
35 member of the group for all years of account.

36 (iv) The incorporated members of the group shall not be engaged
37 in any business other than underwriting as a member of the group
38 and shall be subject to the same level of regulation and solvency
39 control by the group's domiciliary regulator as are the
40 unincorporated members.

(v) The group shall, within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the group.

(C) In the case of a group of incorporated insurers under common administration, the group shall meet all of the following requirements:

(i) Have continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation and be in good standing with its domiciliary regulator.

(ii) Demonstrate that individual insurer members maintain standards and financial conditions reasonably comparable to admitted insurers.

(iii) Maintain aggregate policyholders' surplus of at least ten billion dollars (\$10,000,000,000).

(iv) Maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group.

(v) In addition, maintain a joint trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for these liabilities. The commissioner shall have the authority to require additional amounts to be held in the trust as a condition for initial or continued accreditation if the commissioner determines that these additional amounts are required for the protection of ceding insurers.

(vi) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator, and financial statements for each underwriter member of the group prepared by its independent public accountant.

(D) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner may authorize a

1 reduction in the required trusted surplus, but only after a finding,
2 based on an assessment of the risk, that the new required surplus
3 level is adequate for the protection of United States ceding insurers,
4 policyholders, and claimants in light of reasonably foreseeable
5 adverse loss development. The risk assessment may involve an
6 actuarial review, including an independent analysis of reserves
7 and cashflows, and shall consider all material risk factors,
8 including, when applicable, the lines of business involved, the
9 stability of the incurred loss estimates, and the effect of the surplus
10 requirements on the assuming insurer's liquidity or solvency. The
11 minimum required trusted surplus may not be reduced to an
12 amount less than 50 percent of the assuming insurer's liabilities
13 attributable to reinsurance ceded by United States ceding insurers
14 covered by the trust. *trust, unless the commissioner expressly finds*
15 *that appropriate circumstances justify a lower level of minimum*
16 *required trusted surplus, provided the minimum required trusted*
17 *surplus may not be reduced to an amount less than 30 percent of*
18 *the assuming insurer's liabilities attributable to reinsurance ceded*
19 *by United States ceding insurers covered by the trust.*

20 (e) Credit shall be allowed when the reinsurance ceded to an
21 assuming insurer not meeting the requirements of subdivision (a),
22 (b), (c), or (d), but only as to the insurance of risks located in
23 jurisdictions where the reinsurance is required by applicable law
24 or regulation of that jurisdiction. As used in this section,
25 "jurisdiction" means state, district, or territory of the United States
26 and any lawful national government.

27 *SEC. 2. Section 922.41 of the Insurance Code is amended to*
28 *read:*

29 922.41. (a) Credit shall be allowed a domestic insurer when
30 the reinsurance is ceded to an assuming insurer that has been
31 certified by the commissioner as a reinsurer in this state and secures
32 its obligations in accordance with the requirements of this section.
33 Credit shall be allowed at all times for which statutory financial
34 statement credit for reinsurance is claimed under this section. The
35 credit allowed shall be based upon the security held by or on behalf
36 of the ceding insurer in accordance with a rating assigned to the
37 certified reinsurer by the commissioner. The security shall be in
38 a form consistent with this section, any regulations promulgated
39 by the commissioner, and Section 922.5.

1 (b) In order to be eligible for certification, the assuming insurer
2 shall meet the following requirements:

3 (1) The assuming insurer shall be domiciled and licensed to
4 transact insurance or reinsurance in a qualified jurisdiction, as
5 determined by the commissioner pursuant to subdivisions (f) and
6 (g).

7 (2) The assuming insurer shall maintain minimum capital and
8 surplus, or its equivalent, in an amount to be determined by the
9 commissioner, but no less than two hundred fifty million dollars
10 (\$250,000,000) calculated in accordance with paragraph (4) of
11 subdivision (f) of this section or Section 922.5. This requirement
12 may also be satisfied by an association including incorporated and
13 individual unincorporated underwriters having minimum capital
14 and surplus equivalents (net of liabilities) of at least two hundred
15 fifty million dollars (\$250,000,000) and a central fund containing
16 a balance of at least two hundred fifty million dollars
17 (\$250,000,000).

18 (3) The assuming insurer shall maintain financial strength ratings
19 from two or more rating agencies deemed acceptable by the
20 commissioner. These ratings shall be based on interactive
21 communication between the rating agency and the assuming insurer
22 and shall not be based solely on publicly available information.
23 These financial strength ratings will be one factor used by the
24 commissioner in determining the rating that is assigned to the
25 assuming insurer. Acceptable rating agencies include the following:

26 (A) Standard & Poor's.

27 (B) Moody's Investors Service.

28 (C) Fitch Ratings.

29 (D) A.M. Best Company.

30 (E) Any other nationally recognized statistical rating
31 organization.

32 (4) The assuming insurer shall agree to submit to the jurisdiction
33 of this state, appoint the commissioner or a designated attorney in
34 this state as its agent for service of process in this state, and agree
35 to provide security for 100 percent of the assuming insurer's
36 liabilities attributable to reinsurance ceded by United States ceding
37 insurers if it resists enforcement of a final United States judgment.

38 (5) The assuming insurer shall agree to meet applicable
39 information filing requirements as determined by the commissioner,

1 both with respect to an initial application for certification and on
2 an ongoing basis.

3 (6) The certified reinsurer shall comply with any other
4 requirements deemed relevant by the commissioner.

5 (c) (1) If an applicant for certification has been certified as a
6 reinsurer in a National Association of Insurance Commissioners
7 (NAIC) accredited jurisdiction, the commissioner may defer to
8 that jurisdiction's certification, and has the discretion to defer to
9 the rating assigned by that jurisdiction if the assuming insurer
10 submits a properly executed Form CR-1 (as published on the
11 department's Internet Web site), and such additional information
12 as the commissioner requires. The commissioner, however, may
13 perform an independent review and determination of any applicant.
14 The assuming insurer shall then be considered to be a certified
15 reinsurer in this state.

16 (2) If the commissioner defers to a certification determination
17 by another state, any change in the certified reinsurer's status or
18 rating in the other jurisdiction shall apply automatically in this
19 state as of the date it takes effect in the other jurisdiction unless
20 the commissioner otherwise determines. The certified reinsurer
21 shall notify the commissioner of any change in its status or rating
22 within 10 days after receiving notice of the change.

23 (3) The commissioner may withdraw recognition of the other
24 jurisdiction's rating at any time and assign a new rating in
25 accordance with subdivision (h).

26 (4) The commissioner may withdraw recognition of the other
27 jurisdiction's certification at any time, with written notice to the
28 certified reinsurer. Unless the commissioner suspends or revokes
29 the certified reinsurer's certification in accordance with this section
30 and Section 922.42, the certified reinsurer's certification shall
31 remain in good standing in this state for a period of three months,
32 which shall be extended if additional time is necessary to consider
33 the assuming insurer's application for certification in this state.

34 (d) An association, including incorporated and individual
35 unincorporated underwriters, may be a certified reinsurer. In order
36 to be eligible for certification, in addition to satisfying requirements
37 of subdivision (b), the reinsurer shall meet all of the following
38 requirements:

39 (1) The association shall satisfy its minimum capital and surplus
40 requirements through the capital and surplus equivalents (net of

1 liabilities) of the association and its members, which shall include
2 a joint central fund that may be applied to any unsatisfied
3 obligation of the association or any of its members, in an amount
4 determined by the commissioner to provide adequate protection.

5 (2) The incorporated members of the association shall not be
6 engaged in any business other than underwriting as a member of
7 the association and shall be subject to the same level of regulation
8 and solvency control by the association's domiciliary regulator as
9 are the unincorporated members.

10 (3) Within 90 days after its financial statements are due to be
11 filed with the association's domiciliary regulator, the association
12 shall provide to the commissioner an annual certification by the
13 association's domiciliary regulator of the solvency of each
14 underwriter member or, if a certification is unavailable, financial
15 statements, prepared by independent public accountants, of each
16 underwriter member of the association.

17 (e) (1) The commissioner shall post notice on the department's
18 Internet Web site promptly upon receipt of any application for
19 certification, including instructions on how members of the public
20 may respond to the application. The commissioner shall not take
21 final action on the application until at least ~~90~~ 30 days after posting
22 the notice required by this subdivision.

23 (2) The commissioner shall issue written notice to an assuming
24 insurer that has made application and has been approved as a
25 certified reinsurer. Included in that notice shall be the rating
26 assigned the certified reinsurer in accordance with subdivision (h).
27 The commissioner shall publish a list of all certified reinsurers and
28 their ratings.

29 (f) The certified reinsurer shall agree to meet applicable
30 information filing requirements as determined by the commissioner,
31 both with respect to an initial application for certification and on
32 an ongoing basis. All information submitted by certified reinsurers
33 that is not otherwise public information subject to disclosure shall
34 be exempted from disclosure under Chapter 3.5 (commencing with
35 Section 6250) of Division 7 of Title 1 of the Government Code,
36 and shall be withheld from public disclosure. The applicable
37 information filing requirements are as follows:

38 (1) Notification within 10 days of any regulatory actions taken
39 against the certified reinsurer, any change in the provisions of its
40 domiciliary license or any change in rating by an approved rating

1 agency, including a statement describing those changes and the
2 reasons for those changes.

3 (2) Annually, Form CR-F or CR-S, as applicable pursuant to
4 the instructions published on the department's Internet Web site.

5 (3) Annually, the report of the independent auditor on the
6 financial statements of the insurance enterprise, on the basis
7 described in paragraph (4).

8 (4) Annually, audited financial statements, (audited United
9 States Generally Accepted Accounting Principles basis, if available,
10 audited International Financial Reporting Standards basis
11 statements are allowed, but must include an audited footnote
12 reconciling equity and net income to a United States Generally
13 Accepted Accounting Principles basis, or, with the written
14 permission of the commissioner, audited International Financial
15 Reporting Standards statements with reconciliation to United States
16 Generally Accepted Accounting Principles certified by an officer
17 of the company), regulatory filings, and actuarial opinion (as filed
18 with the certified reinsurer's supervisor). Upon the initial
19 certification, audited financial statements for the last three years
20 filed with the certified reinsurer's supervisor.

21 (5) At least annually, an updated list of all disputed and overdue
22 reinsurance claims regarding reinsurance assumed from United
23 States domestic ceding insurers.

24 (6) A certification from the certified reinsurer's domestic
25 regulator that the certified reinsurer is in good standing and
26 maintains capital in excess of the jurisdiction's highest regulatory
27 action level.

28 (7) Any other information that the commissioner may reasonably
29 require.

30 (g) If the commissioner certifies a non-United States domiciled
31 insurer, the commissioner shall create and publish a list of qualified
32 jurisdictions, under which an assuming insurer licensed and
33 domiciled in that jurisdiction is eligible to be considered for
34 certification by the commissioner as a certified reinsurer.

35 (1) In order to determine whether the domiciliary jurisdiction
36 of a non-United States assuming insurer is eligible to be recognized
37 as a qualified jurisdiction, the commissioner shall evaluate the
38 appropriateness and effectiveness of the reinsurance supervisory
39 system of the jurisdiction, both initially and on an ongoing basis,
40 and consider the rights, benefits, and the extent of reciprocal

1 recognition afforded by the non-United States jurisdiction to
2 reinsurers licensed and domiciled in the United States. The
3 commissioner shall determine the appropriate process for
4 evaluating the qualifications of those jurisdictions. Prior to its
5 listing, a qualified jurisdiction shall agree in writing to share
6 information and cooperate with the commissioner with respect to
7 all certified reinsurers domiciled within that jurisdiction. A
8 jurisdiction may not be recognized as a qualified jurisdiction if the
9 commissioner has determined that the jurisdiction does not
10 adequately and promptly enforce final United States judgments
11 and arbitration awards. Additional factors may be considered in
12 the discretion of the commissioner, including, but not limited to,
13 the following:

14 (A) The framework under which the assuming insurer is
15 regulated.

16 (B) The structure and authority of the domiciliary regulator with
17 regard to solvency regulation requirements and financial
18 surveillance.

19 (C) The substance of financial and operating standards for
20 assuming insurers in the domiciliary jurisdiction.

21 (D) The form and substance of financial reports required to be
22 filed or made publicly available by reinsurers in the domiciliary
23 jurisdiction and the accounting principles used.

24 (E) The domiciliary regulator's willingness to cooperate with
25 United States regulators in general and the commissioner in
26 particular.

27 (F) The history of performance by assuming insurers in the
28 domiciliary jurisdiction.

29 (G) Any documented evidence of substantial problems with the
30 enforcement of final United States judgments in the domiciliary
31 jurisdiction.

32 (H) Any relevant international standards or guidance with
33 respect to mutual recognition of reinsurance supervision adopted
34 by the International Association of Insurance Supervisors or a
35 successor organization.

36 (I) Any other matters deemed relevant by the commissioner.

37 (2) The commissioner shall consider the list of qualified
38 jurisdictions published through the NAIC committee process in
39 determining qualified jurisdictions. The commissioner may include
40 on the list published pursuant to this section, any jurisdiction on

1 the NAIC list of qualified jurisdictions, or on any equivalent list
2 of the United States Treasury.

3 (3) If the commissioner approves a jurisdiction as qualified that
4 does not appear on either the NAIC list of qualified jurisdictions,
5 or the United States Treasury list, the commissioner shall provide
6 thoroughly documented justification in accordance with criteria
7 to be developed under this section.

8 (4) United States jurisdictions that meet the requirements for
9 accreditation under the NAIC financial standards and accreditation
10 program shall be recognized as qualified jurisdictions.

11 (5) If a certified reinsurer's domiciliary jurisdiction ceases to
12 be a qualified jurisdiction, the commissioner has the discretion to
13 suspend the reinsurer's certification indefinitely, in lieu of
14 revocation.

15 (h) The commissioner shall assign a rating to each certified
16 reinsurer, giving due consideration to the financial strength ratings
17 that have been assigned by rating agencies deemed acceptable to
18 the commissioner pursuant to this section. The commissioner shall
19 publish a list of all certified reinsurers and their ratings.

20 (1) Each certified reinsurer shall be rated on a legal entity basis,
21 with due consideration being given to the group rating where
22 appropriate, except that an association including incorporated and
23 individual unincorporated underwriters that has been approved to
24 do business as a single certified reinsurer may be evaluated on the
25 basis of its group rating. Factors that may be considered as part of
26 the evaluation process include, but are not limited to, the following:

27 (A) The certified reinsurer's financial strength rating from an
28 acceptable rating agency. The maximum rating that a certified
29 reinsurer may be assigned shall correspond to its financial strength
30 rating as set forth in clauses (i) to (vi), inclusive. The commissioner
31 shall use the lowest financial strength rating received from an
32 approved rating agency in establishing the maximum rating of a
33 certified reinsurer. A failure to obtain or maintain at least two
34 financial strength ratings from acceptable rating agencies shall
35 result in loss of eligibility for certification.

36 (i) Ratings category "Secure - 1" corresponds to A.M. Best
37 Company rating A++; Standard & Poor's rating AAA; Moody's
38 Investors Service rating Aaa; and Fitch Ratings rating AAA.

39 (ii) Ratings category "Secure - 2" corresponds to A.M. Best
40 Company rating A+; Standard & Poor's rating AA+, AA, or AA-;

1 Moody's Investors Service rating Aa1, Aa2, or Aa3; and Fitch
2 Ratings rating AA+, AA, or AA-.

3 (iii) Ratings category "Secure - 3" corresponds to A.M. Best
4 Company rating A; Standard & Poor's rating A+ or A; Moody's
5 Investors Service rating A1 or A2; and Fitch Ratings rating A+ or
6 A.

7 (iv) Ratings category "Secure - 4" corresponds to A.M. Best
8 Company rating A-; Standard & Poor's rating A-; Moody's
9 Investors Service rating A3; and Fitch Ratings rating A-.

10 (v) Ratings category "Secure - 5" corresponds to A.M. Best
11 Company rating B++ or B+; Standard & Poor's rating BBB+,
12 BBB, or BBB-; Moody's Investors Service rating Baa1, Baa2, or
13 Baa3; and Fitch Ratings rating BBB+, BBB, or BBB-.

14 (vi) Ratings category "Vulnerable - 6" corresponds to A.M.
15 Best Company rating B, B-, C++, C+, C, C-, D, E, or F; Standard
16 & Poor's rating BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, or R;
17 Moody's Investors Service rating Ba1, Ba2, Ba3, B1, B2, B3, Caa,
18 Ca, or C; and Fitch Ratings rating BB+, BB, BB-, B+, B, B-,
19 CCC+, CC, CCC-, or DD.

20 (B) The business practices of the certified reinsurer in dealing
21 with its ceding insurers, including its record of compliance with
22 reinsurance contractual terms and obligations.

23 (C) For certified reinsurers domiciled in the United States, a
24 review of the most recent applicable NAIC Annual Statement
25 Blank, either Schedule F (for property/casualty reinsurers) or
26 Schedule S (for life and health reinsurers).

27 (D) For certified reinsurers not domiciled in the United States,
28 a review annually of Form CR-F (for property/casualty reinsurers)
29 or Form CR-S (for life and health reinsurers) (as published on the
30 department's Internet Web site).

31 (E) The reputation of the certified reinsurer for prompt payment
32 of claims under reinsurance agreements, based on an analysis of
33 ceding insurers' Schedule F reporting of overdue reinsurance
34 recoverables, including the proportion of obligations that are more
35 than 90 days past due or are in dispute, with specific attention
36 given to obligations payable to companies that are in administrative
37 supervision or receivership.

38 (F) Regulatory actions against the certified reinsurer.

1 (G) The report of the independent auditor on the financial
2 statements of the insurance enterprise, on the basis described in
3 subparagraph (H).

4 (H) For certified reinsurers not domiciled in the United States,
5 audited financial statements, (audited United States Generally
6 Accepted Accounting Principles basis, if available, audited
7 International Financial Reporting Standards basis statements are
8 allowed, but must include an audited footnote reconciling equity
9 and net income to a United States Generally Accepted Accounting
10 Principles basis, or, with the written permission of the
11 commissioner, audited International Financial Reporting Standards
12 statements with reconciliation to United States Generally Accepted
13 Accounting Principles certified by an officer of the company),
14 regulatory filings, and actuarial opinion (as filed with the
15 non-United States jurisdiction supervisor). Upon the initial
16 application for certification, the commissioner shall consider
17 audited financial statements for the last three years filed with its
18 non-United States jurisdiction supervisor.

19 (I) The liquidation priority of obligations to a ceding insurer in
20 the certified reinsurer's domiciliary jurisdiction in the context of
21 an insolvency proceeding.

22 (J) A certified reinsurer's participation in any solvent scheme
23 of arrangement, or similar procedure, which involves United States
24 ceding insurers. The commissioner shall receive prior notice from
25 a certified reinsurer that proposes participation by the certified
26 reinsurer in a solvent scheme of arrangement.

27 (K) Any other information deemed relevant by the
28 commissioner.

29 (2) Based on the analysis conducted under subparagraph (E) of
30 paragraph (1) of a certified reinsurer's reputation for prompt
31 payment of claims, the commissioner may make appropriate
32 adjustments in the security the certified reinsurer is required to
33 post to protect its liabilities to United States ceding insurers,
34 provided that the commissioner shall, at a minimum, increase the
35 security the certified reinsurer is required to post by one rating
36 level under regulations promulgated by the commissioner, if the
37 commissioner finds either of the following:

38 (A) More than 15 percent of the certified reinsurer's ceding
39 insurance clients have overdue reinsurance recoverables on paid

1 losses of 90 days or more that are not in dispute and that exceed
2 one hundred thousand dollars (\$100,000) for each ceding insurer.

3 (B) The aggregate amount of reinsurance recoverables on paid
4 losses that are not in dispute and that are overdue by 90 days or
5 more exceeds fifty million dollars (\$50,000,000).

6 (3) The assuming insurer shall submit a properly executed Form
7 CR-1 (as published on the department's Internet Web site) as
8 evidence of its submission to the jurisdiction of this state,
9 appointment of the commissioner as an agent for service of process
10 in this state, and agreement to provide security for 100 percent of
11 the assuming insurer's liabilities attributable to reinsurance ceded
12 by United States ceding insurers if it resists enforcement of a final
13 United States judgment. The commissioner shall not certify any
14 assuming insurer that is domiciled in a jurisdiction that the
15 commissioner has determined does not adequately and promptly
16 enforce final United States judgments or arbitration awards.

17 (4) (A) In the case of a downgrade by a rating agency or other
18 disqualifying circumstance, the commissioner shall, upon written
19 notice, assign a new rating to the certified reinsurer in accordance
20 with the requirements of this subdivision.

21 (B) The commissioner shall have the authority to suspend,
22 revoke, or otherwise modify a certified reinsurer's certification at
23 any time if the certified reinsurer fails to meet its obligations or
24 security requirements under this section, or if other financial or
25 operating results of the certified reinsurer, or documented
26 significant delays in payment by the certified reinsurer, lead the
27 commissioner to reconsider the certified reinsurer's ability or
28 willingness to meet its contractual obligations.

29 (C) If the rating of a certified reinsurer is upgraded by the
30 commissioner, the certified reinsurer may meet the security
31 requirements applicable to its new rating on a prospective basis,
32 but the commissioner shall require the certified reinsurer to post
33 security under the previously applicable security requirements as
34 to all contracts in force on or before the effective date of the
35 upgraded rating. If the rating of a certified reinsurer is downgraded
36 by the commissioner, the commissioner shall require the certified
37 reinsurer to meet the security requirements applicable to its new
38 rating for all business it has assumed as a certified reinsurer.

39 (D) Upon revocation of the certification of a certified reinsurer
40 by the commissioner, the assuming insurer shall be required to

1 post security in accordance with Section 922.5 in order for the
2 ceding insurer to continue to take credit for reinsurance ceded to
3 the assuming insurer. If funds continue to be held in trust in
4 accordance with subdivision (d) of Section 922.4, the commissioner
5 may allow additional credit equal to the ceding insurer's pro rata
6 share of those funds, discounted to reflect the risk of
7 uncollectibility and anticipated expenses of trust administration.
8 Notwithstanding the change of a certified reinsurer's rating or
9 revocation of its certification, a domestic insurer that has ceded
10 reinsurance to that certified reinsurer shall not be denied credit for
11 reinsurance for a period of three months for all reinsurance ceded
12 to that certified reinsurer, unless the reinsurance is found by the
13 commissioner to be at high risk of uncollectibility.

14 (i) A certified reinsurer shall secure obligations assumed from
15 United States ceding insurers under this subdivision at a level
16 consistent with its rating. The amount of security required in order
17 for full credit to be allowed shall correspond with the following
18 requirements:

19 Ratings security required

20 Secure - 1: 0%

21 Secure - 2: 10%

22 Secure - 3: 20%

23 Secure - 4: 50%

24 Secure - 5: 75%

25 Vulnerable - 6: 100%

26 (1) In order for a domestic ceding insurer to qualify for full
27 financial statement credit for reinsurance ceded to a certified
28 reinsurer, the certified reinsurer shall maintain security in a form
29 acceptable to the commissioner and consistent with Section 922.5,
30 or in a multibeneficiary trust in accordance with subdivision (d)
31 of Section 922.4, except as otherwise provided in this subdivision.
32 In order for a domestic insurer to qualify for full financial statement
33 credit, reinsurance contracts entered into or renewed under this
34 section shall include a proper funding clause that requires the
35 certified reinsurer to provide and maintain security in an amount
36 sufficient to avoid the imposition of any financial statement penalty
37 on the ceding insurer under this section for reinsurance ceded to
38 the certified reinsurer.

39 (2) If a certified reinsurer maintains a trust to fully secure its
40 obligations subject to subdivision (d) of Section 922.4, and chooses

1 to secure its obligations incurred as a certified reinsurer in the form
2 of a multibeneficiary trust, the certified reinsurer shall maintain
3 separate trust accounts for its obligations incurred under
4 reinsurance agreements issued or renewed as a certified reinsurer
5 with reduced security as permitted by this subdivision or
6 comparable laws of other United States jurisdictions and for its
7 obligations subject to subdivision (d) of Section 922.4. It shall be
8 a condition to the grant of certification under this section that the
9 certified reinsurer shall have bound itself, by the language of the
10 trust and agreement with the commissioner with principal
11 regulatory oversight of each of those trust accounts, to fund, upon
12 termination of any of those trust accounts, out of the remaining
13 surplus of those trusts any deficiency of any other of those trust
14 accounts.

15 (3) The minimum trustee surplus requirements provided in
16 subdivision (d) of Section 922.4 are not applicable with respect to
17 a multibeneficiary trust maintained by a certified reinsurer for the
18 purpose of securing obligations incurred under this subdivision,
19 except that the trust shall maintain a minimum trustee surplus of
20 ten million dollars (\$10,000,000).

21 (4) With respect to obligations incurred by a certified reinsurer
22 under this subdivision, if the security is insufficient, the
23 commissioner shall reduce the allowable credit by an amount
24 proportionate to the deficiency, and have the discretion to impose
25 further reductions in allowable credit upon finding that there is a
26 material risk that the certified reinsurer's obligations will not be
27 paid in full when due.

28 (5) For purposes of this subdivision, a certified reinsurer whose
29 certification has been terminated for any reason shall be treated
30 as a certified reinsurer required to secure 100 percent of its
31 obligations.

32 (A) As used in this subdivision, the term "terminated" means
33 revocation, suspension, voluntary surrender, and inactive status.

34 (B) If the commissioner continues to assign a higher rating as
35 permitted by other provisions of this section, this requirement shall
36 not apply to a certified reinsurer in inactive status or to a reinsurer
37 whose certification has been suspended.

38 (6) The commissioner shall require the certified reinsurer to
39 post 100-percent security in accordance with Section 922.5, for
40 the benefit of the ceding insurer or its estate, upon the entry of an

1 order of rehabilitation, liquidation, or conservation against the
2 ceding insurer.

3 (7) Affiliated reinsurance transactions shall receive the same
4 opportunity for reduced security requirements as all other
5 reinsurance transactions.

6 (8) In order to facilitate the prompt payment of claims, a certified
7 reinsurer shall not be required to post security for catastrophe
8 recoverables for a period of one year from the date of the first
9 instance of a liability reserve entry by the ceding company as a
10 result of a loss from a catastrophic occurrence that is likely to result
11 in significant insured losses, as recognized by the commissioner.
12 The one-year deferral period is contingent upon the certified
13 reinsurer continuing to pay claims in a timely manner, as
14 determined by the commissioner, in writing. Reinsurance
15 recoverables for only the following lines of business as reported
16 on the NAIC annual financial statement related specifically to the
17 catastrophic occurrence shall be included in the deferral:

18 (A) Line 1: Fire.

19 (B) Line 2: Allied lines.

20 (C) Line 3: Farmowners' multiple peril.

21 (D) Line 4: Homeowners' multiple peril.

22 (E) Line 5: Commercial multiple peril.

23 (F) Line 9: Inland marine.

24 (G) Line 12: Earthquake.

25 (H) Line 21: Auto physical damage.

26 (9) Credit for reinsurance under this section shall apply only to
27 reinsurance contracts entered into or renewed on or after the
28 effective date of the certification of the assuming insurer. Any
29 reinsurance contract entered into prior to the effective date of the
30 certification of the assuming insurer that is subsequently amended
31 by mutual agreement of the parties to the reinsurance contract after
32 the effective date of the certification of the assuming insurer, or a
33 new reinsurance contract, covering any risk for which collateral
34 was provided previously, shall only be subject to this section with
35 respect to losses incurred and reserves reported from and after the
36 effective date of the amendment or new contract.

37 (10) Nothing in this section shall be construed to prohibit the
38 parties to a reinsurance agreement from agreeing to provisions
39 establishing security requirements that exceed the minimum

1 security requirements established for certified reinsurers under
2 this section.

3 (j) A certified reinsurer that ceases to assume new business in
4 this state may request to maintain its certification in inactive status
5 in order to continue to qualify for a reduction in security for its
6 in-force business. An inactive certified reinsurer shall continue to
7 comply with all applicable requirements of this section, and the
8 commissioner shall assign a rating that takes into account, if
9 relevant, the reasons why the reinsurer is not assuming new
10 business.

11 (k) Notwithstanding this section, credit for reinsurance or
12 deduction from liability by a domestic ceding insurer for cessions
13 to a certified reinsurer may be disallowed upon a finding by the
14 commissioner that the application of the literal provisions of this
15 section does not accomplish its intent, or either the financial
16 condition of the reinsurer or the collateral or other security provided
17 by the reinsurer does not, in substance, satisfy the credit for
18 reinsurance requirements in Section 922.4.

19 (l) This section shall remain in effect only until January 1, 2016,
20 and as of that date is repealed, unless a later enacted statute, that
21 is enacted before January 1, 2016, deletes or extends that date.

22 ~~SECTION 4.~~

23 *SEC. 3.* Section 927.2 of the Insurance Code is amended to
24 read:

25 927.2. (a) (1) By July 1, 2013, each admitted insurer, with
26 California premiums written of one hundred million dollars
27 (\$100,000,000) or more, shall submit a report to the commissioner
28 on its minority, women, and disabled veteran-owned business
29 procurement efforts during the reporting period.

30 (2) The report shall include all of the following:

31 (A) The insurer's supplier diversity policy statement.

32 (B) The insurer's outreach and communications to minority,
33 women, and disabled veteran business enterprises, including:

34 (i) How the insurer encourages and seeks out minority, women,
35 and disabled veteran owned business enterprises to become
36 potential suppliers.

37 (ii) How the insurer encourages its employees involved in
38 procurement to seek out minority, women, and disabled
39 veteran-owned business enterprises to become potential suppliers.

1 (iii) How the insurer conducts outreach and communication to
2 minority, women, and disabled veteran business enterprises.

3 (iv) How the insurer supports organizations that promote or
4 certify minority, women, and disabled veteran-owned business
5 enterprises.

6 (v) Information regarding appropriate contacts at the insurer for
7 interested business enterprises.

8 (C) The report shall include information about which
9 procurements are made from minority, women, and disabled
10 veteran business enterprises with a headquarters' address in
11 California, with each category aggregated separately, to the extent
12 that information is readily accessible. An insurer may also include
13 other relevant information in the report.

14 (3) An insurer that does not enter into contracts to procure goods
15 or services in California satisfies the requirements of paragraph
16 (2) by filing a statement with the commissioner attesting that it
17 does not enter into procurement contracts in California.

18 (b) Nothing in this section shall be construed to require quotas,
19 set-asides, or preferences in an admitted insurer's procurement of
20 goods or services, nor does this section apply to insurer producer
21 or licensee contracts. Admitted insurers retain the authority to use
22 business judgment to select the supplier for a particular contract.

23 (c) Nothing in this section shall preclude an admitted insurer
24 that is a member of an insurance holding company system, as
25 defined in Article 4.7 (commencing with Section 1215) of Chapter
26 2, from complying with paragraphs (1) and (2) of subdivision (a)
27 through a single filing on behalf of the entire group of affiliated
28 companies.

29 (d) Failure to file the report required by subdivision (a), by July
30 1, 2013, shall subject the admitted insurer to a civil penalty to be
31 fixed by the commissioner, not to exceed five thousand dollars
32 (\$5,000), or if the act or practice was willful, a civil penalty not
33 to exceed ten thousand dollars (\$10,000). An insurer may request,
34 and the commissioner may grant, a 30-day extension to file the
35 report if needed due to unintended or unforeseen delays. If the
36 insurer has failed to file the report within 30 days of a written
37 notice by the commissioner that the insurer has failed to file the
38 report, the commissioner may find that the failure to file the report
39 was willful and increase the civil penalty to an amount not to
40 exceed ten thousand dollars (\$10,000). The penalty imposed by

1 this section shall be enforced by the commissioner and is
2 appealable by means of any remedy provided by Section 12940,
3 or by Chapter 5 (commencing with Section 11500) of Part 1 of
4 Division 3 of Title 2 of the Government Code. This subdivision
5 is the sole means for enforcement of this section.

6 (e) Commencing July 1, 2015, each admitted insurer specified
7 in subdivision (a) shall biennially update its supplier diversity
8 report and submit the new report to the commissioner no later than
9 July 1.

10 (f) By September 30 of the reporting year, the commissioner
11 shall establish and maintain a link on the department's Internet
12 Web site that provides public access to the contents of each
13 admitted insurer's report on minority, women, and disabled
14 veteran-owned business procurement efforts. The commissioner
15 shall include a statement on the department's Internet Web site
16 that the information contained in the insurer's report on minority,
17 women, and disabled veteran-owned businesses is provided for
18 informational purposes only.

19 ~~SEC. 2.~~

20 *SEC. 4.* Section 1775.1 of the Insurance Code is amended to
21 read:

22 1775.1. (a) ~~For the calendar year 1995, and each calendar year~~
23 ~~thereafter, Each calendar year,~~ every surplus line broker whose
24 annual tax for the preceding calendar year was twenty thousand
25 dollars (\$20,000) or more shall make monthly installment payments
26 on account of the annual tax on business done during the current
27 calendar year imposed by Section 1775.5.

28 (b) Notwithstanding any other law, the commissioner may
29 relieve a surplus line broker of his or her obligation to make
30 monthly payments if the broker establishes to the satisfaction of
31 the commissioner that either the broker has ceased to transact
32 business in this state, or his or her annual tax for the current year
33 will be less than twenty thousand dollars (\$20,000).

34 ~~SEC. 3.~~

35 *SEC. 5.* Section 10505.1 of the Insurance Code is amended to
36 read:

37 10505.1. (a) (1) Any nonprofit cooperative assessment
38 association, the membership and insurance in which are restricted
39 to members of a labor union, is exempt from the provisions of this
40 code relating to the supervision or regulation of insurance with

1 respect to the provision of job protection benefits, including any
2 accidental death benefits, to its members. A nonprofit cooperative
3 assessment association established pursuant to this section is not,
4 and shall not be, a member of the California Insurance Guarantee
5 Association under Article 14.2 (commencing with Section 1063)
6 of Chapter 1 of Part 2 of Division 1, or any other insurance
7 guaranty association in this state.

8 (2) Each policy issued in this state pursuant to this section shall
9 contain, in at least 10-point typeface on the front page and the
10 declaration page, the following notice:

11
12 “NOTICE

13 This policy is issued by a nonprofit cooperative assessment
14 association that is not subject to CALIFORNIA insurance laws
15 and regulation and is not admitted in California. California
16 insurance guaranty funds are not available for your nonprofit
17 cooperative assessment association.”
18

19 (b) “Job protection insurance” means the business of providing
20 indemnity to conductors, engineers, motormen, brakemen,
21 switchmen, firemen, dispatchers, clerks, operators, trackmen,
22 signalmen, and maintenance of way personnel of steam and electric
23 railways and to busdrivers and truckdrivers employed by common
24 carriers for loss of position arising from discharge or suspension,
25 which indemnity is payable in installments that do not exceed the
26 average monthly wage of the insured. “Job protection insurance”
27 may include accidental death coverage insuring the member.
28 Nothing in this section is intended to regulate or define any benefit
29 delivery system which provides indemnity, as defined in this
30 section, in any manner other than the sale of insurance. Labor
31 unions providing the type of indemnity defined in this section,
32 shall be expressly exempt from any regulation by any state agency.

33 ~~SEC. 4.~~

34 *SEC. 6.* Section 11628 of the Insurance Code is amended to
35 read:

36 11628. (a) (1) No admitted insurer that is licensed to issue
37 and issuing motor vehicle liability policies, as defined in Section
38 16450 of the Vehicle Code, shall fail or refuse to accept an
39 application for that insurance, to issue that insurance to an applicant
40 therefor, or issue or cancel that insurance under conditions less

1 favorable to the insured than in other comparable cases, except for
2 reasons applicable alike to persons of every characteristic listed
3 or defined in subdivision (b) or (e) of Section 51 of the Civil Code,
4 including, but not limited to, language, or persons of the same
5 geographic area; nor shall any characteristic listed or defined in
6 subdivision (b) or (e) of Section 51 of the Civil Code, including,
7 but not limited to, language, or location within a geographic area,
8 of itself, constitute a condition or risk for which a higher rate,
9 premium, or charge may be required of the insured for that
10 insurance.

11 (2) As used in this section “geographic area” means a portion
12 of this state of not less than 20 square miles defined by description
13 in the rating manual of an insurer or in the rating manual of a rating
14 bureau of which the insurer is a member or subscriber. In order
15 that geographic areas used for rating purposes may reflect
16 homogeneity of loss experience, a record of loss experience for
17 the geographic area shall include the breakdown of actual loss
18 experience statistics by ZIP Code area (as designated by the United
19 States Postal Service) within each geographic area for family
20 owned private passenger motor vehicles and lightweight
21 commercial motor vehicles, under 1 ½-ton load capacity, used for
22 local service or retail delivery, normally within a 50-mile radius
23 of garaging, and that are not part of a fleet of five or more motor
24 vehicles under one ownership. A record of loss experience for the
25 geographic area, including that statistical data by ZIP Code area,
26 shall be submitted biennially to the commissioner for examination
27 by each insurer licensed to issue and issuing motor vehicle liability
28 policies, motor vehicle physical damage policies, or both. Loss
29 experience shall include separate loss data for each type of
30 coverage, including liability or physical damage coverage,
31 underwritten. The biennial report shall include the insurer’s
32 statewide loss ratio, loss adjustment expense ratio, expense ratio,
33 and combined ratio on its assigned-risk business. Statewide
34 summary data shall be submitted annually to the commissioner.
35 An insurer may satisfy its obligation to report statistical data under
36 this subdivision by providing its loss experience data and statewide
37 expense ratio and combined ratio on its assigned-risk business to
38 a rating or advisory organization for submission to the
39 commissioner. This data shall be made available to the public by
40 the commissioner biennially after examination. However, the data

1 shall be released in aggregate form by ZIP Code or statewide basis
2 in order that no individual insurer's loss experience for any specific
3 geographic area be revealed. Differentiation in rates between
4 geographical areas shall not constitute unfair discrimination.

5 (3) All information reported to the department pursuant to this
6 subdivision shall be confidential.

7 (4) As used in this section:

8 (A) "Language" means the inability to speak, read, write, or
9 comprehend the English language.

10 (B) "Dependents" shall include, but not be limited to, issue
11 regardless of generation.

12 (C) "Spouse" shall be determined without regard to current
13 marital status.

14 (b) The commissioner may require insurers with combined ratios
15 on statewide assigned-risk business that are 10 percent above the
16 mean combined ratio for all plan participants to also report the
17 following:

18 (1) The reason for the excessive ratio.

19 (2) A plan for reducing the ratio, and when the reduction can
20 be expected to occur. The commissioner may require insurers
21 subject to this subdivision to provide periodic reports on the
22 progress in reducing the combined ratio.

23 (c) (1) No admitted insurer, licensed to issue and issuing motor
24 vehicle liability insurance policies as defined in Section 16450 of
25 the Vehicle Code, shall fail or refuse to accept an application for
26 that insurance, refuse to issue that insurance to an applicant
27 therefor, or cancel that insurance solely for the reason that the
28 applicant for that insurance or any insured is employed in a specific
29 occupation, or is on active duty service in the Armed Forces of
30 the United States.

31 (2) Nothing in this section shall prohibit an insurer from doing
32 any of the following:

33 (A) Considering the occupation of the applicant or insured as
34 a condition or risk for which a higher rate or discounted rate may
35 be required or offered for coverage in the course and scope of his
36 or her occupation.

37 (B) Charging a deviated rate to any classification of risks
38 involving a specific occupation, or grouping thereof, if the rate
39 meets the requirements of Chapter 9 (commencing with Section
40 1850.4) of Part 2 of Division 1 and is based upon actuarial data

1 that demonstrates a significant actual historical differential between
2 past losses or expenses attributable to the specific occupation, or
3 grouping thereof, and the past losses or expenses attributable to
4 other classification of risks. For purposes of compiling that
5 actuarial data for a specific occupation or grouping thereof, a
6 person shall be deemed employed in the occupation in which that
7 data is compiled if any of the following is true:

8 (i) The majority of his or her employment during the previous
9 year was in the occupation.

10 (ii) The majority of his or her aggregate earnings for the
11 immediate preceding three-year period were derived from the
12 occupation.

13 (iii) The person is a member in good standing of a union that is
14 an authorized collective bargaining agent for persons engaged in
15 the occupation.

16 (3) Nothing in this section shall be construed to include in the
17 definition of “occupation” any status or activity that does not result
18 in remuneration for work done or services performed, or
19 self-employment in a business operated out of an applicant’s or
20 insured’s place of residence or persons engaged in the renting,
21 leasing, selling, repossessing, rebuilding, wrecking, or salvaging
22 of motor vehicles.

23 (d) Nothing in this section shall limit or restrict the ability of
24 an insurer to refuse to accept an application for or refuse to issue
25 or cancel insurance for the reason that it is a commercial vehicle
26 or based upon the consideration of a vehicle’s size, weight, design,
27 or intended use.

28 (e) It is the intent of the Legislature that actuarial data by
29 occupation may be examined for credibility by the commissioner
30 on the same basis as any other automobile insurance data that he
31 or she is empowered to examine.

32 (f) (1) Except as provided in Article 4 (commencing with
33 Section 11620), nothing in this section or in Article 10
34 (commencing with Section 1861.01) of Chapter 9 of Part 2 of
35 Division 1 or in any other provision of this code, shall prohibit an
36 insurer from limiting the issuance or renewal of insurance, as
37 defined in subdivision (a) of Section 660, to persons who engage
38 in, or have formerly engaged in, governmental or military service
39 or segments of categories thereof, and their spouses, dependents,
40 direct descendants, and former dependents or spouses.

(2) The term “military service” includes, but is not limited to, officers, warrant officers, and enlisted persons, officer and warrant officer candidates, cadets or midshipmen at a service academy, cadets or midshipmen in advance Reserve Officer Training Corps programs or on Reserve Officer Training Corps program scholarships, National Guard officer candidates, students in government-sponsored precommissioning programs, and foreign military officers while on temporary duty in the United States.

(g) Any person subject to regulation by the commissioner pursuant to this code who fails to comply with a data call required by the department pursuant to subdivision (a) shall be liable to the state for a civil penalty in an amount not exceeding five thousand dollars (\$5,000) for each 30-day period that the person is not in compliance, unless the failure to comply is willful, in which case the civil penalty shall be in an amount not to exceed ten thousand dollars (\$10,000) for each 30-day period that the person is not in compliance, but not to exceed an aggregate amount of one hundred thousand dollars (\$100,000). The commissioner shall collect the amount so payable and may bring an action in the name of the people of the State of California to enforce collection. These penalties shall be in addition to other penalties provided by law.

(h) This section shall be known and may be cited as the “Rosenthal Auto Insurance Nondiscrimination Law.”

~~SEC. 5.~~

SEC. 7. Section 12251 of the Revenue and Taxation Code, as added by Section 13 of Chapter 33 of the Statutes of 2013, is amended to read:

12251. (a) ~~For the calendar year 1970, and each calendar year thereafter, Each calendar year,~~ insurers transacting insurance in this state and whose annual tax for the preceding calendar year was twenty thousand dollars (\$20,000) or more shall make prepayments of the annual tax for the current calendar year imposed by Section 28 of Article XIII of the California Constitution and this part, provided that prepayments shall not be made with respect to the tax on ocean marine insurance underwriting profit or any retaliatory tax.

(b) This section shall become operative on July 1, 2013.

1 ~~SEC. 6.~~

2 SEC. 8. Section 12260 of the Revenue and Taxation Code, as
3 added by Section 28 of Chapter 33 of the Statutes of 2013, is
4 amended to read:

5 12260. (a) Notwithstanding any other provision of this article,
6 the commissioner may relieve an insurer of its obligation to make
7 prepayments if the insurer establishes to the satisfaction of the
8 commissioner that either the insurer has ceased to transact
9 insurance in this state, or the insurer's annual tax for the current
10 year will be less than twenty thousand dollars (\$20,000).

11 (b) This section shall become operative on July 1, 2013.

12 SEC. 9. *Section 38750 of the Vehicle Code is amended to read:*

13 38750. (a) For purposes of this division, the following
14 definitions apply:

15 (1) "Autonomous technology" means technology that has the
16 capability to drive a vehicle without the active physical control or
17 monitoring by a human operator.

18 (2) (A) "Autonomous vehicle" means any vehicle equipped
19 with autonomous technology that has been integrated into that
20 vehicle.

21 (B) An autonomous vehicle does not include a vehicle that is
22 equipped with one or more collision avoidance systems, including,
23 but not limited to, electronic blind spot assistance, automated
24 emergency braking systems, park assist, adaptive cruise control,
25 lane keep assist, lane departure warning, traffic jam and queuing
26 assist, or other similar systems that enhance safety or provide driver
27 assistance, but are not capable, collectively or singularly, of driving
28 the vehicle without the active control or monitoring of a human
29 operator.

30 (3) "Department" means the Department of Motor Vehicles.

31 (4) An "operator" of an autonomous vehicle is the person who
32 is seated in the driver's seat, or if there is no person in the driver's
33 seat, causes the autonomous technology to engage.

34 (5) A "manufacturer" of autonomous technology is the person
35 as defined in Section 470 that originally manufactures a vehicle
36 and equips autonomous technology on the originally completed
37 vehicle or, in the case of a vehicle not originally equipped with
38 autonomous technology by the vehicle manufacturer, the person
39 that modifies the vehicle by installing autonomous technology to

1 convert it to an autonomous vehicle after the vehicle was originally
2 manufactured.

3 (b) An autonomous vehicle may be operated on public roads
4 for testing purposes by a driver who possesses the proper class of
5 license for the type of vehicle being operated if all of the following
6 requirements are met:

7 (1) The autonomous vehicle is being operated on roads in this
8 state solely by employees, contractors, or other persons designated
9 by the manufacturer of the autonomous technology.

10 (2) The driver shall be seated in the driver's seat, monitoring
11 the safe operation of the autonomous vehicle, and capable of taking
12 over immediate manual control of the autonomous vehicle in the
13 event of an autonomous technology failure or other emergency.

14 (3) Prior to the start of testing in this state, the manufacturer
15 performing the testing shall obtain an instrument of insurance,
16 surety bond, or proof of self-insurance in the amount of five million
17 dollars (\$5,000,000), and shall provide evidence of the insurance,
18 surety bond, or self-insurance to the department in the form and
19 manner required by the department pursuant to the regulations
20 adopted pursuant to subdivision (d).

21 (c) Except as provided in subdivision (b), an autonomous vehicle
22 shall not be operated on public roads until the manufacturer submits
23 an application to the department, and that application is approved
24 by the department pursuant to the regulations adopted pursuant to
25 subdivision (d). The application shall contain, at a minimum, all
26 of the following certifications:

27 (1) A certification by the manufacturer that the autonomous
28 technology satisfies all of the following requirements:

29 (A) The autonomous vehicle has a mechanism to engage and
30 disengage the autonomous technology that is easily accessible to
31 the operator.

32 (B) The autonomous vehicle has a visual indicator inside the
33 cabin to indicate when the autonomous technology is engaged.

34 (C) The autonomous vehicle has a system to safely alert the
35 operator if an autonomous technology failure is detected while the
36 autonomous technology is engaged, and when an alert is given,
37 the system shall do either of the following:

38 (i) Require the operator to take control of the autonomous
39 vehicle.

1 (ii) If the operator does not or is unable to take control of the
2 autonomous vehicle, the autonomous vehicle shall be capable of
3 coming to a complete stop.

4 (D) The autonomous vehicle shall allow the operator to take
5 control in multiple manners, including, without limitation, through
6 the use of the brake, the accelerator pedal, or the steering wheel,
7 and it shall alert the operator that the autonomous technology has
8 been disengaged.

9 (E) The autonomous vehicle's autonomous technology meets
10 Federal Motor Vehicle Safety Standards for the vehicle's model
11 year and all other applicable safety standards and performance
12 requirements set forth in state and federal law and the regulations
13 promulgated pursuant to those laws.

14 (F) The autonomous technology does not make inoperative any
15 Federal Motor Vehicle Safety Standards for the vehicle's model
16 year and all other applicable safety standards and performance
17 requirements set forth in state and federal law and the regulations
18 promulgated pursuant to those laws.

19 (G) The autonomous vehicle has a separate mechanism, in
20 addition to, and separate from, any other mechanism required by
21 law, to capture and store the autonomous technology sensor data
22 for at least 30 seconds before a collision occurs between the
23 autonomous vehicle and another vehicle, object, or natural person
24 while the vehicle is operating in autonomous mode. The
25 autonomous technology sensor data shall be captured and stored
26 in a read-only format by the mechanism so that the data is retained
27 until extracted from the mechanism by an external device capable
28 of downloading and storing the data. The data shall be preserved
29 for three years after the date of the collision.

30 (2) A certification that the manufacturer has tested the
31 autonomous technology on public roads and has complied with
32 the testing standards, if any, established by the department pursuant
33 to subdivision (d).

34 (3) A certification that the manufacturer will maintain, *an*
35 *instrument of insurance*, a surety bond, or proof of self-insurance
36 as specified in regulations adopted by the department pursuant to
37 subdivision (d), in an amount of five million dollars (\$5,000,000).

38 (d) (1) As soon as practicable, but no later than January 1,
39 2015, the department shall adopt regulations setting forth
40 requirements for the submission of evidence of insurance, surety

1 bond, or self-insurance required by subdivision (b), and the
2 submission and approval of an application to operate an
3 autonomous vehicle pursuant to subdivision (c).

4 (2) The regulations shall include any testing, equipment, and
5 performance standards, in addition to those established for purposes
6 of subdivision (b), that the department concludes are necessary to
7 ensure the safe operation of autonomous vehicles on public roads,
8 with or without the presence of a driver inside the vehicle. In
9 developing these regulations, the department may consult with the
10 Department of the California Highway Patrol, the Institute of
11 Transportation Studies at the University of California, or any other
12 entity identified by the department that has expertise in automotive
13 technology, automotive safety, and autonomous system design.

14 (3) The department may establish additional requirements by
15 the adoption of regulations, which it determines, in consultation
16 with the Department of the California Highway Patrol, are
17 necessary to ensure the safe operation of autonomous vehicles on
18 public roads, including, but not limited to, regulations regarding
19 the aggregate number of deployments of autonomous vehicles on
20 public roads, special rules for the registration of autonomous
21 vehicles, new license requirements for operators of autonomous
22 vehicles, and rules for revocation, suspension, or denial of any
23 license or any approval issued pursuant to this division.

24 (4) The department shall hold public hearings on the adoption
25 of any regulation applicable to the operation of an autonomous
26 vehicle without the presence of a driver inside the vehicle.

27 (e) (1) The department shall approve an application submitted
28 by a manufacturer pursuant to subdivision (c) if it finds that the
29 applicant has submitted all information and completed testing
30 necessary to satisfy the department that the autonomous vehicles
31 are safe to operate on public roads and the applicant has complied
32 with all requirements specified in the regulations adopted by the
33 department pursuant to subdivision (d).

34 (2) Notwithstanding paragraph (1), if the application seeks
35 approval for autonomous vehicles capable of operating without
36 the presence of a driver inside the vehicle, the department may
37 impose additional requirements it deems necessary to ensure the
38 safe operation of those vehicles, and may require the presence of
39 a driver in the driver's seat of the vehicle if it determines, based
40 on its review pursuant to paragraph (1), that such a requirement is

1 necessary to ensure the safe operation of those vehicles on public
2 roads. The department shall notify the Legislature of the receipt
3 of an application from a manufacturer seeking approval to operate
4 an autonomous vehicle capable of operating without the presence
5 of a driver inside the vehicle and approval of the application.
6 Approval of the application shall be effective no sooner than 180
7 days after the date the application is submitted.

8 (f) Nothing in this division shall limit or expand the existing
9 authority to operate autonomous vehicles on public roads, until
10 120 days after the department adopts the regulations required by
11 paragraph (1) of subdivision (d).

12 (g) Federal regulations promulgated by the National Highway
13 Traffic Safety Administration shall supersede the provisions of
14 this division when found to be in conflict with any other state law
15 or regulation.

16 (h) The manufacturer of the autonomous technology installed
17 on a vehicle shall provide a written disclosure to the purchaser of
18 an autonomous vehicle that describes what information is collected
19 by the autonomous technology equipped on the vehicle. The
20 department may promulgate regulations to assess a fee upon a
21 manufacturer that submits an application pursuant to subdivision
22 (c) to operate autonomous vehicles on public roads in an amount
23 necessary to recover all costs reasonably incurred by the
24 department.